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10/768,369	01/30/2004	Lowell G. Steffens	24048	6537

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William J Clemens Esq
Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, OH 43551-4163

EXAMINER

BUTLER, MICHAEL E

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3653

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/768,369	Applicant(s) STEFFENS	
	Examiner Michael Butler	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-3 and 5-6 and 8-13 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson 3122401 which discloses all the claimed elements including:

(Re: cl. 1, 13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c4 L 31-71);
a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c6 L 34-64);
wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being vertically staggered with respect to storage locations of another one of trays (tray compartments at differing vertical heights in figs 1 & 3)
a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening (c4 L 62-72);
and an indexing assembly connected to door member and to rotator assembly
indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening

Art Unit: 3653

when door member is moved from the closed position to the open position (c8 L 18-36; c1 L 64-70)

wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (c5 L 55-75)

(Re: cl 13) propane tank accessible (c6 L 9-63)

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 62-72)

(Re: cl 3)(2) wherein the locking mechanism is token-operated (c4 L 62-72)

(Re: cl 5,15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c6 L 9-63)

(Re: cl 6,16) wherein adjacent ones of storage locations are separated by dividers 112 (fig 4)

(Re: cl 8,16) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (c9 L 56-c10 L 54)

(Re: cl 9,17,22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c9 L 56-c10 L 54)

(Re: cl 10,18)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (118 fig 2)

(Re: cl 11,19)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c9 L 56-c10 L 54)

(Re: cl 12,20)(9) wherein rotator assembly includes a plurality of projections, second arm engaging one of projections during an opening of door member to rotate rotator assembly (c8 L 19-42)

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c4 L 31-71);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c6 L 34-64);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening (c4 L 62-72);

and an indexing assembly connected to door member and to rotator assembly indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c1 L 64-70)

(Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c9 L 56-c10 L 54).

Art Unit: 3653

3. Claims 1-3, 5-13 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative as ob Johnson 3122401 which discloses all the claimed elements including:

(Re: cl 7)(6) wherein dividers each include a horizontal beam extending from an upper portion of vertical beam radially inwardly (112 fig 2) and suggests a vertical beam adjacent a periphery of rotator assembly (112a fig 2).

A rod is suggestive of being a subset of being beam or a recognized equivalent of a beam.

It would have been obvious for Johnson to substitute rod with a beam as an easily fabricated structural and functional equivalent and come up with the instant invention.

4. Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bjornson 1885324 which discloses all the claimed elements including:

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (p3 L 47-60);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (p3 L 61-74);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (p3 L 47-60),

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (p3 L 47-60)

(Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (p1 L 50-100).

5. Claims 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichle et al. 4621746 which discloses all the claimed elements including:

(Re: cl 21) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c 3 L 29-43);

Art Unit: 3653

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c3 L 51-68);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (c3 L 51-68),

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c4 L 58-c5 L 8)

(Re: cl 22) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c4 L 30-68).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjornson 1885324 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 1,13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (p3 L 47-60);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (p3 L 61-74);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (p3 L 47-60),

Art Unit: 3653

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (p3 L 47-60)

(Re: cl 13) propane tank accessible

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (p1 L 50-100)

(Re: cl 3)(2) wherein the locking mechanism is token-operated (p3 L 27-43)

(Re: cl 5,15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (p1 L 36-49)

(Re: cl 6,16) wherein adjacent ones of storage locations are separated by dividers (4 fig 4)

(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (p1 L 50-100)

(Re: cl 9,17) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (p1 L 50-100)

(Re: cl 10,1)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (p1 L 50-100)

(Re: cl 11,19)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (p1 L 50-100)

(Re: cl 12,20)(9) wherein rotator assembly includes a plurality of projections (fig 2), second arm engaging one of projections during an opening of door member to rotate rotator assembly (P2 L 1-48).

the latter discloses any elements not inherently taught by the former including:

(Re: cl 1,13) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 fig 1)

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Bjornson to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Bjornson to stack a plurality of trays

Art Unit: 3653

to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

8. Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over by Reichle et al. 4621746 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and further discloses:

(Re: cl 1) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c 3 L 29-43);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c3 L 51-68);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (c3 L 51-68),

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c5 L 30-35; c4 L 58-c5 L 8)

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 58-c5 L 8)

(Re: cl 3)(2) wherein the locking mechanism is token-operated (c4 L 58-c5 L 8)

(Re: cl 5) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c3 L 1-3)

(Re: cl 6) wherein adjacent ones of storage locations are separated by dividers (c3 L 1-3; c4 L 1 L 14)

(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (23)

(Re: cl 9) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c4 L 30-68)

(Re: cl 10)(9) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (c3 L 61-68)

(Re: cl 11)(10) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c4 L 21-68).

Art Unit: 3653

and the latter discloses any the elements not inherently taught by the former including:

wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being vertically staggered with respect to storage locations of another one of trays (3 fig 1, tray compartments at differing vertical heights in figs 1 & 3)

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Reichle et al. to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Reichle et al. to vertically stagger the storage compartments with a plurality of trays to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

9. Claim(s) 1-3, 5-13, 15-22 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson 3122401 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 7)(6) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly (11 fig 3).

It would have been obvious for Johnson to substitute the vertical rods with beams to simplify fabrication as taught by Wittenborg and come up with the instant invention.

Response to Amendments/Arguments

10. Applicant's amendment was effective in overcoming the previous anticipatory rejections evidenced by Bjornson and Reichle et al..

The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections evidenced by Johnson. Johnson has a plurality of trays with compartments, the compartments and trays staggered to differing heights.

That Johnson's has an anti-pilfer device is not relevant to whether the claims read on the prior art. Patents are granted premised upon what the applicant brings to the art, not what the applicant omits. Johnson indexes the doors with the opening of the door (c8 L 18-36) as well as the closing of the door.

Applicant asserts his device accepts return of used cylinders. However, there is no return cylinder structure in applicant's claim that presents such a distinction from Johnson. Patents are granted based upon the claimed features distinguishable over the prior art rather than unclaimed features disclosed but unclaimed.

Wittenborg has a plurality of trays with compartments, the compartments and trays staggered to differing heights. There is no return cylinder structure in applicant's claim that presents such a distinction from Johnson.

Bjornson explicitly states opening the door rotates the turntable into registration- registration is an indexing. The lever in Reichle et al. opens the door and rotates the turntable together.

Conclusion

11. Applicant's amendment necessitated the new grounds for rejection. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 3653

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEK

9/15/07



PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600